

REMARKS/ARGUMENTS

The Office Action mailed July 19, 2004 has been reviewed and carefully considered. Claims 1-20 and 29-33 were previously canceled. Claim 34 is now also canceled. Claim 21 is amended. Claims 21-28 are pending in this application, with claim 21 being the only independent claim. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 21-28 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,746,332 (Ing).

Before discussing the cited prior art and the Examiner's rejections of the claims in view of that art, a brief summary of the present invention is appropriate. The present invention relates to a system and method for simulating message delivery delay over a virtual distance between parties participating in computer-based recreational benefit applications (see page 2, lines 3-4; and page 5, lines 2-6 of the specification). The description of the related art on pages 2-4 of the specification indicates that the recreational benefit applications may include computer games (see especially page 3, lines 9-15). According to the invention, users may connect to a recreational server 500 through the internet 400 or other network to play a recreation (page 13, lines 2-4).

In one embodiment, transmission of communications between users is delayed according to a simulated speed of light (page 13, lines 6-7). In this embodiment, the actual locations and distanced between users and the simulated speed of light are used to determine the delay (page 13, lines 10-18). According to another embodiment, delays are implemented to compensate for variations in the parties connection speeds (page 17, lines 1-2). This obviates any advantages to players with faster connections by ensuring that transmissions are completed at the same time for all players.

Ing discloses a multi-player gaming system for use over the Internet by numerous remotely connected users, the gaming system administering several virtual worlds. Each virtual world is administered as a separate world complex 7-10 (col. 12, lines 7-8 of Ing). Each world complex has a world server network 12 with at least one central world server 15 and an area server group 20 with area servers 22, 24, 26 (col. 12, lines 8-10 and 38-42). World complexes 7-10 are connected by a system LAN 40 which is connected to a central administration and monitoring server, 50, a chat server 55, an Internet web site server 52, a login server 54 and a software patch server 60 (col. 13, lines 16-22). Patch servers 60 provide software updates for the players upon logging into the game through login server 54 (col. 13, lines 30-31).

According to Ing, certain classes of messages are required to have an assurance that they will be received with a high degree of certainty. This is accomplished using a reliable datagram protocol (RDP) described in cols. 17-20.

Independent claim 21 is amended to incorporate the limitations of dependent claim 34 and now recites "means for adapting delivery time of messages sent from a terminal to another terminal by implementing a delay time in the transmission of messages for simulating transmission delays in the network recreation environment or to compensate for variations in connection speeds of the terminals".

As stated in MPEP §2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combines) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed

combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

It is respectfully submitted that the Examiner has failed to provide a *prima facie* case of obviousness, at least for the limitations of claim 34 which are now incorporated in independent claim 21. The Examiner states that the patches disclosed in Ing may be used to help compensate delay times. However, Ing describes the patches as software updates (see col. 13, lines 30-31 and col. 14, lines 5-8). Moreover, there is no mention at all of compensating delay times in Ing. Accordingly, there is no motivation, teaching or suggestion in Ing for implementing a delay time in the transmission of messages. In contrast, Ing teaches only that the round trip time averages are measured for determining an appropriate time for retransmitting an unacknowledged packet (col. 18, lines 1-3). There is no indication that the measured round trip delay is or may be used for implementing a delay, as recited in independent claim 21.

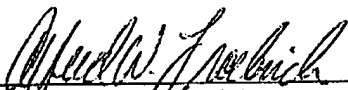
In view of the above amendments and remarks, it is respectfully submitted that independent claim 21 is allowable over Ing.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

By



Alfred W. Froeblich

Reg. No. 38,887

551 Fifth Avenue, Suite 1210

New York, New York 10176

(212) 687-2770

Dated: October 19, 2004